GOR MYSORE STATE

Rev (195 /) Department.

RT SERIES.

Passed
Ok
Supdt

GO NO. 361 S

Dated 24-5-57.

[Despatch Abstract.]

Defence of India Rules: Requisition of immoveable properties - K.S.F. Ltd - Payment of Compensation Permission to make personal inspection of the Mysore Silk Filatures by the Dist. Judge CBE granted.

2701 B/51

District Court, Coimbatore.

Dated 14th April 1951.

From.

Sri. N.D. Krishna Rao, M.A., I.C.S., Bar-at-law,

District Judge. Coimbatore

To

The Registrar,

High Court,

M a d r a s.

Sir,

Subject: O.P. No. 17 of 1944--Defence of India Rules--Acquisition of Immoveable properties--Kollegal Silk Filatures Ltd.--Payment of compensation-Permission to make personal inspection of the factories of the Mysore Silk Filatures Ltd.--Requested.

Reference: G.O. Ms. No. 1730 (Development Department) Dated 24-9-1950; and High Courts R.O.C. No. 7277/50-B2 dated 21-2-1951 Communicating Govt. memo No. 118958-M/50-3 dated 12-1-1951.

In G.O. Ms. No. 1730 quoted above, I have been appointed as arbitrator to fix the amount of compensation to be paid to the Kollegal Silk Filatures Ltd. the properties of which were acquired by the Government. Under the High Court's order of remand dated 14-11-1949 in C.M.A. No. 334 of 1947, the compensation has to be fixed by valuing the said Filatures as a going concern.

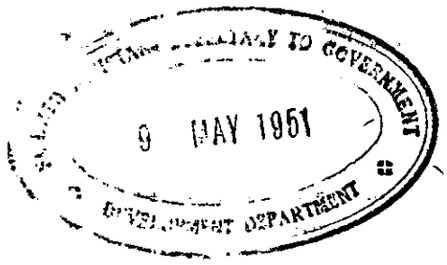
2. The 5th witness examined on behalf of the claimant Filatures is Sri. G. Krishnaswamy who was the managing agent of the Mysore Silk Filatures Ltd. His evidence is directed to show that the valuation of the acquired Filatures as a going concern is comparable with that of the Mysore Silk Filatures Ltd. A copy of his deposition is enclosed herewith for reference. In order to appreciate this evidence, it has become necessary to make an inspection of the factories of the Mysore Silk Filatures Ltd. in the Mysore State.

3. I therefore request that necessary permission of the Government may kindly be obtained and forwarded to me at an early date.

Yours Faithfully,

N D Krishna Rao

District Judge.



51516

Roc 2701/51 B2

Forwarded to E&R
for necessary orders.

V. Ramaswamy
27.4.57
Asst Registrar H.C.
I.

High Court
reason
27.4.57

To the Secretary to Govt.
Development Dept.
Chennai

27.4.57

2074/57 B

Enclosure to the Govt.

Memo. 2078 dated

14.4.57 - Letter requesting

to obtain permission of

Government to inspect

the Mysore Silk Filatures

Submitted

Deputy Secretary

Revenue Department

14/4

Secretary

Textiles

IN THE COURT OF ~~XXXXXX~~ THE DISTRICT JUDGE OF COIMBATORE C. F. 394.

2074/57 B.

O.P.No.17 of 1944.

Deposition of 5th witness for Claimants

solemnly affirmed/sworn by M.Lourdaswami, Clerk on 30-3-1951

in accordance with the provisions of Act X of 1873.

Name G.Krishnaswamy

Father's name G.Sreenivasa Rao

Village Mysore City Taluk Caste Brahmin

Calling Merchant Religion Hinduism Age 53

I was the managing agent of the Mysore Silk Filature Ltd from 1937 to 1949, as one of the two partners of Naik and company. Exn.P-18 to P-25 contain the reports of the Directors, and the balance sheets and profit and loss accounts representing the ~~xxxx~~ true state of facts. As found in pages 3 to 4 of Ex.P-18, at the end of 1941 there were 138+48+48 basins in the 3 factories. The net profit for the half year ending 31-12-41 was 18,330-3-8 as shown at page 14 of Ex.P-18. In 1942 negotiations were completed for erecting 600 basins under the expansion scheme. Estimated capital expenditure for the same was Rs.7,20,000/-. To build a factory, with a limit of 48 to 200 basins, the capital expenditure is made up of site, buildings, electrical equipment, well and pump and water ~~xx~~ equipment, boiler, cocoon racks, examination apparatus and office. It was estimated to be Rs.1200/- per basin. We completed erecting the 600 basins by 1945 but the accounts were finalised in 1947. P.9 of Ex.P-18 contains the fixed capital expenditure for 234 basins--Total 2,21,489--2-9. P.9 and 11 of Ex.P-24 contain the fixed capital expenditure for 900 basins, including the 234 of 1941. Total Rs.17,71,321--0-3.

The difference represents the capital expenditure for 666 basins. The dividend declared for the calendar year 1942 was 17½ per cent; 1943-46 was 12½ percent every year.

I had seen the claimant's factory once in 1941 or 1942. All the 666 basins ~~xxxxxxxxxxx~~ installed by us in Mysore Silk Filatures between 1942 and 1945 were stone-ware basins on cement concrete tables. Copper basins were not available during the period and so we had to resort to stoneware. The original 234 basins were mostly copper basins. Some of them were on ~~iron~~ tables and others on cement concrete tables. Copper basins are superior to and more valuable than stone-ware basins. When I saw the ~~claimant's factory~~ it was in working condition. I value it, exclusive of goodwill, at Rs.197,600/- or ~~two lakhs~~ lakhs in round figures in March 1943. My reasons are that estimated capital expenditure in 1942 was Rs.1200/- per basin and there were 150 basins in the claimant's factory. In subsequent years, Rs.1200/- was found to be an underestimate and capital expenditure went up to Rs.1800/- to 2000/- per basin. I am not taking this increase into account as the claimant's factory was ready by 1942. To this 180,000, I add (a) at Rs.100/- per basin extra for 76 copper basins--7600/0/0 (b) Rs.10,000 roughly for the extra of acres of land, as 3 acres would suffice to put a factory of ~~xxxxx~~ 150 basins and claimant's ~~x~~ factory I gather had 12 acres.

By goodwill, I mean the advantage having the factory ready and functioning with facilities like electric power and trained labour. This has to be separately valued because it takes 1½ to 2 years to ~~xxxx~~ build and equip a factory and train the labour. Since 1942 supply of electric power was restricted. Goodwill also includes the name of the manufacturing company owing to which its products could be readily marketed. By experience, I adopt two methods to value the goodwill. One is to put it as 50% per cent of the capital expenditure i.e., at Rs.One lakh. The other~~xx~~ is to calculate five times the current profit. The claimants figures are now stated to be over Rs.20,000/- for 1942-43.

This is less than what I estimate for 150 basins from the results of Mysore Silk Filatures at that time. So I accept 20,000/- and five times that amount is 1 lakh. Thus the total value of the claimant's factory in March 1943 is Rs.3 lakhs.

The estimate of Rs.1200/- per basin does not include anything over the factory and office buildings i.e., it does not include residential quarters for manager and staff.

The account of Mysore Silk Filatures at 188-89 of investors' Encyclopaedia, 1946 Edn. compiled by Kothari and Sons is correct.

Sd.G.Krishnaswamy

Taken down by me in open court and read over to the witness and acknowledged by him to be correct.

Sd.N.D.Krishna Rao
District Judge.

(Note :Adjd at request of G.P. for crossexamination as Sri A.T.J. needed to instruct him has to unavoidably return to Kollegal today for his duties) Sd.N.D.Krishna Rao.

6-4-1951. (Camp- Kollegal)

Exd.in chief:- I cannot certify to the correctness of the figures of highest and lowest prices of shares in the table at page 189. Except for them, the other figures are correct according to the balance sheet.Ex.P-26.

I see the share market report Ex.P-27 issued by Swastik & Co dated 12-2-43. The quotation for Mysore Silk Filatures shares is given at p.14 as Rs.24/- approximately. It is correct.

XXn:- The account of Kollegal Silk Filatures is given at page 569 of the Encyclopaedia. I see therein that there was profit only in 1940 and 1942 and 1944. I don't know personally about the working of this concern. I value it on the basis that it could be worked as profitably as M.S.F. The boom period was the 2 years ending 15-8-46. Owing to the Hindu Muslim troubles and division of India, the dumping of foreign silk at low prices and the inadequate protective duty there were losses from 1947 onwards(See page 1 of Ex.P-24). The Mysore Govt. have given loans to the extent of 10 lakhs to M.S.F. and as a condition for the loans have taken over the management. Ex.D-14 is the report of M.S.F. for 15 months ending 31-3-50. The latest quotation is Rs.4-10-0 for each M.S.F. share Rs.10/- paid up.

We got loans from the Mysore Govt. because owing to the slump in the share market in 1948, we could not raise the share capital as we wanted. As there were losses, the shares could not be sold at par.

We cannot take into consideration the profit for only one year and value the concern. We have to take into consideration the profit for 3 to 5 years to value the goodwill. If there is no profit for four years, there is no goodwill i.e. the value of goodwill is zero. M.S.F. got no profit but incurred losses for the past 5 years. So value of its goodwill is zero now.

Efficient management depends on good organization, capacity to sell its products and capacity to put money for working capital. Good organization includes knowing when to buy and stock cocoons and when to sell the silk yarn and how to minimize the cost of production e.g. by minimising labour charges and increasing the output.

I don't know whether Mr.Silva could manage efficiently the K.S.F. Except for a casual visit in 1941 or 1942, I don't know anything about the internal working of K.S.F. I don't know of its having a trade name for its products, just as M.S.F. had the trade name "Chamundi Chop"

In a filature, a basin is a unit of machinery, just like a spindle or ring frame in a cotton spinning mill or a loom in a cotton weaving mill. A basin can produce about 12 oz to 1 lb (16 oz) of silk per day of 8 hours.

I have no expert knowledge on silk rearing, reeling, twisting or weaving. I am not a technical expert on these things but I have good working knowledge. I got the working knowledge because I managed a twisting, weaving and dyeing factory at Bangalore in 1930-39 and was managing the M.S.F. Between 1918 & 1922, I was employed as an accountant in the auditor's office of Mysore State Railways. The name of the factory at Bangalore was Sri Rama Silk Mills. Mr. Narayana Rao G. Naik and myself floated the the M.S.F. in December 1937. All my working knowledge of silk, is due to the above mentioned two sources.

I went to the K.S.F. as a casual visitor and stayed for about half an hour there in 1941 or 42. I did not carefully see how the basins were working. I don't remember the number of boilers, but I know that one boiler was working. I cannot say about the productive capacity of the basins Productive capacity deteriorates after use and that is called depreciation. I adopt 2½% depreciation per year on buildings and 7½% depreciation per year on machinery. These are the rates allowed by the Income Tax Dept. For vehicles 20 per cent is allowed per year. For boilers and steam pipes, about 100% is allowed. For electrical lines and fittings and motors, a higher percentage--I think about 15% is allowed.

By dismantling and reassembly of machinery, there is additional depreciation. For basins, this additional depreciation is 2½% for one dismantling and reassembly. Without referring to M.S.F., books, I can't give the value of any basin installed in 1938-39 onwards. Rs.1200/- was the estimate for a unit in 1942.

Reeling machinery form an integral part of basins. Without referring to books, I can't give the value of the component parts of a unit basin. If the K.S.F. had no electric supply in 1942-43, that item included in Goodwill has to be excluded. The government could easily get electric supply especially during war. So the facility of electric power has no value to Government. I don't know whether the K.S.F. had trained labour at the time of acquisition.

Ex.P-27 is issued by a member of the Stock Exchange Association which is recognised by Government. Swastik & Co are stockbrokers who buy and sell shares for commission. I buy and sell shares, not for others but for myself.

Re: In the first 2 to 5 years, a company has to write off the preliminary expenses (advertisement and printing charges, travelling expenses, registration charges & sundry expenses till registration) and underwriting commission and brokerage. These amounts are appropriated out of the profits. From 1941 to 1946, M.S.F. were making profits and paying dividends. After Japan entered war in December 1941, there was complete stoppage of foreign silk as Italy and Japan were supplying countries. So the price of silk steadily increased from 1942 to 1946. Price was controlled till August 1945. The factories were unable to meed the demand When I saw the K.S.F., it was in working order. We have been deducting depreciation as allowed by the Incometax Department. That gives only the book value and not the real value. There is heavy appreciation of the real value of land and buildings and machinery, though according to the books depreciation is deducted.

I remember that in May-June 1943 M.S.F. shares sold around Rs.30/- per share as I had some transactions.

If M.S.F. was available for sale in 1943, I would have offered double the book value of the assets (Rs.3,53,000 X 2) as the balance sheet for the year ended 31-12-42 showed a profit of 1,91,960-12-0 (Ex.P-19).

Sd.G.Krishnaswamy

Taken down by me in open court, read over to the witness, and acknowledged by him to be correct.

Sd.N.D.Krishna Rao
District Judge.

/True copy/ Head clerk
~~District Judge~~

Dev Depn

Dl 188 issue

Dev 23.5.51

119/24/5/51 Fin (V) 170 (G) 1 1 1

Sub: Defence of India Rules: Acquisition of immoveable properties - Kollegal Silk Filatures Ltd Payment of Compensation - Permission to make personal inspection of the Mysore Silk Filatures by the Dist. Judge Coimbatore - granted.

Read: G.O. Ms. 1730 Dev. Depn. d. 24.9.50
Govt. memo 118958 M1/50-3 Dev. d. 12-1-51.
From the Dist. Judge Coimbatore 2701/51 B. dl 14 5/51.

— — x — —

RE. 361 dated. 24.5.51

In the circumstances stated in his letter cited Government permit, Sri. N.D. Krishna Rao, District Judge, Coimbatore, who has been appointed ~~by Govt~~ as arbitrator) to fix the amount of Compensation to be paid to the Kollegal Silk Filatures Ltd., acquired by the Govt., to make an inspection of the factories of the Mysore Silk Filatures Ltd., in the Mysore State.

Dev 24/5/51 (1057)

(1557)

To The Dist. Judge, Coimbatore
" the Registrar High Court, Madras
" the Dfte, Madras
dey to Govt. decette

Dev 24/5/51

Note. The letter from the Dist. Judge Coimbatore at p. 1 cf. addressed to the Regr. High Court Madras may be perused. A draft order is submitted for approval & orders sent to Govt for acceptance

Dev 24/5/51 (1057).

(1557)

Fin (Cbd)

Dev. 515/16 M1/51

15-5-51

ACCEPTANCE TO GOVERNMENT
21 MAY 1951
ADDITIONAL DEPUTY SECRETARY
2701
16 MAY 1951
C.R.
FINANCE DEPARTMENT

The draft order may be accepted.

17/5/51

Fin no 3701/Gen-56259

17-5-51

Dev

Note The draft order above may issue

Dev Depn M1

Dev 24.5.51

(2557)

(2557)